

MINUTES OF MEETING
RUSH RIVER WATER RESOURCE DISTRICT
CASS COUNTY HIGHWAY DEPARTMENT
WEST FARGO, NORTH DAKOTA
OCTOBER 20, 2015

The Rush River Water Resource District met on October 20, 2015, at 8:00 a.m. at the Cass County Highway Department, West Fargo, North Dakota.

Present were Raymond Wolfer, Chairman; William A. Hejl, Manager; Richard Sundberg, Manager; Carol Harbeke Lewis, Secretary-Treasurer; Brenda Lovgren, Administrative Assistant; Sean M. Fredricks, Attorney for the Board; Mike Opat, Engineer for the Board; Brady Woodard, Moore Engineering, Inc.; David Strand, Amenia Township Resident ; and Dennis Rust, property owner along the Lower Rush River.

Minutes

It was moved by Manager Hejl, seconded by Manager Sundberg and unanimously carried to approve the minutes of the September 15 and October 9, 2015, meetings.

Drain #2 Improvement Project No. 2015-02 - cleanout of the Lower Rush River from the outlet, west 5 miles

Brady Woodard updated the Board regarding Drain #2 Improvement Project No. 2015-02. He said 1-2 feet of sediment needs to be cleaned out of the channel in Section 14 of Harmony Township. The remaining channel bottom from the outlet, west 5 miles, is at proper grade. The low water crossing located on the adjacent property will remain intact. H & S Contracting, Inc. should have the project completed within two weeks.

Mr. Woodard reviewed the profile of the Lower Rush River with Dennis Rust. Mr. Rust would like to see work done through Sections 2 and 11 of Raymond Township and Section 31 of Harwood Township, but the profile shows the channel is on grade. The profile also indicates an area that is below grade, where water would likely continue to stand, and the channel is flatter through this area. The option of lowering the outlet to provide more depth in the channel was discussed. The Board agreed that no further work will be done on the outlet until more is known about the future of the Metro Flood Diversion Project. Mr. Rust said the ditch would be adequate with the Metro Flood Diversion Project in place, but expressed concern about how long it would be before the project will be built.

Drain No. 2 Improvement Project No. 2015-01

Mr. Woodard reviewed the progress of Drain No. 2 Improvement Project No. 2015-01. The project will be complete after it has been seeded.

Drain #52 – tree removal

It was moved by Manager Hejl and seconded by Manager Sundberg to approve payment of Invoice #1450 for American Enterprises, Inc., contingent upon verification by Moore Engineering, Inc. of the removal of trees from Drain #52 in Section 6 of Harmony Township. Upon roll call vote, the motion carried unanimously. Mr. Woodard will inspect Drain #52 to make sure trees have been removed.

Drain #67 – sediment / debris removal update

Pro Landscapers LLC has completed the removal of sediment and debris from Drain #67 at the outlet into the Rush River. No additional updates were reported.

Rush River Watershed Retention Plan – *First Amendment to Cost-Share Agreement with the Red River Joint Water Resource District*

It was moved by Manager Hejl and seconded by Manager Sundberg to approve the *First Amendment to Cost-Share Agreement* with the Red River Joint Water Resource District regarding the Rush River Watershed Retention Plan. Upon roll call vote, the motion carried unanimously.

Application to Install a Subsurface Drain #201512 for Duane Dickson in the SW 1/4 and SE 1/4 of Section 30 in Hunter Township

The Board reviewed *Application to Install a Subsurface Drain #201512* dated July 13, 2015, for Duane Dickson. The E 1/2 of Section 30 is within North Cass Water Resource District's geographical boundaries, and the W 1/2 of Section 30 is within Rush River Water Resource District's geographical boundaries; all properties downstream of the project are within Rush River Water Resource District's jurisdiction. The Board reviewed the criteria in Section 89-02-01-09 of the North Dakota Administrative Code and concluded the project does not meet any of the "statewide" elements; therefore, the Board concluded the application does not propose drainage of statewide significance, so the Board has jurisdiction to approve the permit (without forwarding to the State Engineer's Office to consider and approve). Under the application, Applicant seeks to install a drain tile system in the S 1/2 of Section 30 in Hunter Township, Cass County, North Dakota. The project will include a pump outlet located in the southwest corner of Section 30; the pump outlet will discharge to the southwest via a diagonal culvert that will run from the SW 1/4 of Section 30 to the NE 1/4 of Section 36 in Dows Township (under the township road); from there, the tile discharge will flow south in the west township road ditch along the north-south township road between Section 31 in Hunter Township and Section 36 in Dows Township; the tile discharge will flow south for approximately one-quarter of a mile before intersecting a natural watercourse; from there, the tile discharge will flow through the natural watercourse to the west and to the south through the NE 1/4 of Section 36 and the S 1/2 of Section 36 before discharging into the Rush River. The North Cass Water Resource District previously approved the permit, contingent upon the Rush River Water Resource District's approval and subject to conditions attached by the Rush River Water Resource District.

With regard to the tile discharge that will flow within township road right of way, and with regard to the boring through or under the township road, the Board will require applicant

to obtain permission from the township that is responsible for the township road along Section 31 in Hunter Township and Section 36 in Dows Township.

According to records on file with the Cass County Recorder's Office, Dickson Investment, LLLP, owns the S 1/2 of Section 30 in Hunter Township, as well as the NE 1/4 of Section 36 and the S 1/2 of Section 36 in Dows Township.

It was moved by Manager Hejl and seconded by Manager Sundberg to approve *Application to Install a Subsurface Drain #201512* dated July 13, 2015, for Duane Dickson in the S 1/2 of Section 30 in Hunter Township, subject to the following conditions:

- 1) That Applicant obtain and record (with the Cass County Recorder's office) an easement (and not just written consent), from Dickson Investment, LLLP, the record owner of the S 1/2 of Section 30 in Hunter Township, Cass County, North Dakota, to allow Applicant to install, maintain, and operate subsurface tile;
- 2) That Applicant obtain and record (with the Cass County Recorder's office) a flowage easement (and not just a written consent), including language that permits saline water, from Dickson Investment, LLLP, the record owner of the NE 1/4 of Section 36 in Dows Township, Cass County, North Dakota;
- 3) That Applicant obtain easements from the owner of any land, besides land owned by Applicant, on which Applicant will construct the tile system;
- 4) That Applicant obtain written permission from either the Hunter Township Board of Township Supervisors or the Dows Township Board of Township Supervisors, whichever township has jurisdiction over the township road along the boundaries of Section 31 of Hunter Township and Section 36 of Dows Township, to discharge into, or otherwise utilize, any township road ditches, or to bore through the township road;
- 5) That Applicant notify the Rush River Water Resource District in advance of any proposed alterations to outlet locations, or addition of any outlets;
- 6) That Applicant notify the Rush River Water Resource District in advance of any proposed improvements to the tile system, or any proposed increase in the capacity or drainage area of the tile system and, if necessary, submitting an additional permit application;
- 7) That Applicant must close all outlets during flood occurrences or under conditions that may cause adverse impacts to downstream landowners, as determined by the Rush River Water Resource District; and

8) That Applicant obtain all other necessary and requisite licenses, permits, registrations, and/or approvals from all applicable federal, state, county, and municipal governments, and any other applicable governmental entities.

Upon roll call vote, the motion carried unanimously.

Application to Install a Subsurface Drain #201516 for Roger G. Nelson LLLP in Section 13 of Amenia Township

The Board reviewed *Application to Install a Subsurface Drain #201516* dated September 10, 2015, for Roger G. Nelson, LLLP. The Board reviewed the criteria in Section 89-02-01-09 of the North Dakota Administrative Code and concluded the project does not meet any of the “statewide” elements; therefore, and the Board concluded the application does not propose drainage of statewide significance, so the Board has jurisdiction to approve the permit (without forwarding to the State Engineer’s Office to consider and approve). Under the application, Applicant seeks to install a drain tile system in nearly all portions of Section 13 in Amenia Township, Cass County, North Dakota. The project will include two pump outlets; one will be located just north of BNSF Railway Company’s right of way along the east boundary of the SE 1/4 of Section 13; the other will be located in the southeast corner of Section 13. The tile discharge from the outlets will flow south along the east boundary of the NE 1/4 of Section 24 in the west township road ditch regarding the north-south township road along the east boundary of the NE 1/4 of Section 24; the tile discharge will ultimately outlet into the Rush River in the NE 1/4 of Section 24.

The Board will require Applicant to obtain permission from Amenia Township regarding use of the township road ditch. The Board previously provided *Thirty-Day Notices* under N.D. Cent. Code Section 61-32-03.1 to the landowners in the NE 1/4 of Section 24 in Amenia Township. Anne E. Hill submitted written comments regarding the project but did not object to the tile discharge crossing her property before entering the Rush River.

According to records on file with the Cass County Recorder’s Office, Rodney G. Nelson, LLLP, owns all that portion of the W 1/2 of Section 13 east of Highway 18 and south of BNSF’s railroad right of way. Roger G. Nelson, LLLP, owns the rest of Section 13. Rodney G. Nelson, LLLP, owns most of the NE 1/4 of Section 24 lying north of the Rush River, with the exception of a roughly 26-acre tract owned by Anne E. Hill.

It was moved by Manager Hejl and seconded by Manager Sundberg to approve *Application to Install a Subsurface Drain #201516* dated September 10, 2015, for Roger G. Nelson, LLLP, in Section 13 of Amenia Township, subject to the following conditions:

- 1) That Applicant obtain and record (with the Cass County Recorder’s office) flowage easements (and not just written consents), including language that permits saline water, from the record owners of the E 1/2 NE 1/4 of Section 24 in Amenia Township lying north of the Rush River;
- 2) That Applicant obtain and record (with the Cass County Recorder’s office) an easement (and not just written consent) that permits Applicant to

install, operate, and maintain subsurface tile from the record owner of that portion of the W 1/2 of Section 13 in Amenias Township, Cass County, North Dakota, lying east of Highway 18 and south of the BNSF Railway Company's right of way;

3) That Applicant obtain easements from the owner of any land, besides land owned by Applicant, on which Applicant will construct the tile system;

4) That Applicant obtain written permission from the Amenias Township Board of Township Supervisors to discharge into, or otherwise utilize, any of its township road ditches;

5) That Applicant notify the Rush River Water Resource District in advance of any proposed alterations to outlet locations, or addition of any outlets;

6) That Applicant notify the Rush River Water Resource District in advance of any proposed improvements to the tile system, or any proposed increase in the capacity or drainage area of the tile system and, if necessary, submitting an additional permit application;

7) That Applicant must close all outlets during flood occurrences or under conditions that may cause adverse impacts to downstream landowners, as determined by the Rush River Water Resource District; and

8) That Applicant obtain all other necessary and requisite licenses, permits, registrations, and/or approvals from all applicable federal, state, county, and municipal governments, and any other applicable governmental entities.

Upon roll call vote, the motion carried unanimously.

Application to Install a Subsurface Drain #201521 for North Dakota Ag Experiment Station in the NE 1/4 and SE 1/4 of Section 27 in Rush River Township

The Board reviewed *Application to Install a Subsurface Drain #201521* for North Dakota Ag Experiment Station in the NE 1/4 and SE 1/4 of Section 27 in Rush River Township. A *Thirty-Day Notice* will be sent to downstream landowners.

Subdivision Applications

The Board directed the Secretary-Treasurer to submit comment on the following, with input from the Water Resource District Engineer:

- Correspondence from Cass County Planning
 - Haine Subdivision in the SE 1/4 of Section 2 in Amenias Township; and
 - Cenex Pipeline Subdivision in the SE 1/4 of Section 9 in Raymond Township.

Bills

It was moved by Manager Hejl and seconded by Manager Sundberg to approve payment of Checks #4085, #4086, #4088 through #4102 and the electronic funds transfer, as presented. Upon roll call vote, the following Managers voted in favor: Wolfer, Hejl and Sundberg. The Chairman declared the motion passed.

Adjournment

There being no further business for the Board to consider, it was moved by Manager Hejl, seconded by Manager Sundberg and unanimously carried to adjourn the meeting.

APPROVED:

Raymond Wolfer
Chairman

ATTEST:

Carol Harbeke Lewis
Secretary-Treasurer